

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
SUKHJINDER SINGH, : 11-cv-3236 (CBA) (VVP)
Plaintiff, :
 :
- versus - : U.S. Courthouse
 : Brooklyn, New York
CHASE HOME FINANCE, et al. :
Defendant : January 6, 2012
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TRANSCRIPT OF CIVIL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE VIKTOR V. POHORELSKY
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Defendant:

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1 THE COURT: This is 11-cv-3236, Singh v. Chase
2 Home Finance, et al.

3 Counsel, please state your appearance.

4 MS. AUGELLO: Cynthia Augello from Cullen and
5 Dykman for Chase Home Finance.

6 THE COURT: The time is now 10:15. This matter
7 was scheduled to commence at 10 a.m. this morning and the
8 scheduling order setting this conference was mailed out
9 on December 16. The order required the plaintiff
10 Sukhjinder Singh to appear in person or to have an
11 attorney who has filed a notice of appearance on his
12 behalf appear at this hearing.

13 A brief background of this case is that the
14 matter was filed initially by the plaintiff acting pro
15 se. At the initial conference in this matter held on
16 October 13 of last year, an attorney appeared on behalf
17 of the plaintiff, Janet Fashakin (ph.). The attorney had
18 not, at that point, filed a notice of appearance but
19 assured the Court that she would be doing so.

20 Before I proceed any further, Ms. Augello, have
21 you heard anything at all from Ms. Fashakin since that
22 conference?

23 MS. AUGELLO: No, I have not.

24 THE COURT: All right. And there's been no
25 notice of appearance filed, I presume. Nothing was

1 served on you; is that correct?

2 MS. AUGELLO: I haven't received anything.

3 THE COURT: All right. The plaintiff's counsel
4 was directed to file the notice of appearance if she
5 intended to appear immediately after the conference by
6 going down to the clerk's office and that obviously did
7 not happen. But as the Court noted, in response, I think
8 to the defendant's letter seeking to renew a motion to
9 dismiss, the Court scheduled today's hearing in an effort
10 to find out how this matter would proceed. And gave
11 notice to the defendant -- excuse me, to the plaintiff,
12 about today's conference.

13 The scheduling order also provided a warning in
14 bold faced type that a failure to appear at the hearing
15 would serve as grounds for dismissal of the case for
16 failure to prosecute. The copy was mailed. A copy was
17 mailed to the pro se party, as well as to Ms. Fashakin.
18 No one is here.

19 The notice was sent to the pro se litigant at
20 his address of record in the case which is 101-11 132
21 Street in South Richmond Hill, New York. He's not here.
22 No attorney has appeared. I'm therefore recommending
23 that the matter be dismissed for failure to prosecute.

24 I will have a transcript of this report and
25 recommendation prepared and filed and it will constitute

1 the report and recommendation that the case be dismissed
2 with prejudice -- be dismissed. It will be a
3 recommendation that the matter be dismissed without
4 prejudice because I have no -- I just don't know what's
5 going on.

6 But that will at least obviate the need to
7 proceed with the motion to dismiss at this point and if
8 the plaintiff wants to refile, then he'll have to bear
9 the cost of refiling and we'll see if the case will
10 proceed at that point.

11 Do you know anything about what's going on with
12 the underlying property that's -- I presume this has to
13 do with a mortgage or some other kind of property
14 dispute?

15 MS. AUGELLO: It does. The complaint was kind
16 of unclear. It mentioned two mortgages. As far as I
17 know, there's only a home equity line on the property.
18 Nothing is going on with it, as far as I know. It's not
19 in foreclosure or anything as far as I know.

20 THE COURT: Oh, I see. So there's not a
21 foreclosure action in state court.

22 MS. AUGELLO: Not that I'm aware of.

23 THE COURT: Okay. Is there anything that you
24 wanted to say, Ms. Augello, about this? I mean I guess I
25 should give you a chance to be heard but it's my

1 recommendation -- it would be my recommendation, unless
2 you oppose it, that the matter be dismissed. I can't do
3 that. It has to be done by the district judge who is
4 assigned, which is Judge Amon, I think at this point.

5 MS. AUGELLO: Yes.

6 THE COURT: But that's what I would recommend
7 unless you have some different view.

8 MS. AUGELLO: No, I agree.

9 THE COURT: All right. Well, the
10 recommendation is based on the failure to appear today,
11 the failure to follow other directions of the Court.
12 Mr. Singh was given an opportunity to amend the complaint
13 if he wished in order to avoid the motion to dismiss the
14 defendant's intended to file. That filing was supposed
15 to be made by a date certain and in accordance with prior
16 orders of the court. That did not occur. He has not
17 appeared today. In fact, I don't think Mr. Singh has
18 ever appeared in this matter. The only appearance was by
19 Ms. Fashakin and she represented to the Court that she
20 would be filing a notice of appearance. That has never
21 happened. So there's no attorney in the case.

22 And given the warning that Mr. Singh had that
23 his appearance was required today, the Court really has
24 no other way to proceed other than to recommend
25 dismissal. We don't have a plaintiff. We can't proceed

1 in the absence of the plaintiff.

2 So, the transcript will be mailed. I will
3 direct the clerk to mail a copy of the transcript of this
4 recommendation to Mr. Singh. He is advised by means of
5 the transcript that he must file objections, if he has
6 any, to the recommendation within fourteen days of
7 receiving the transcript. Failure to file any objections
8 within that fourteen day period will constitute a waiver
9 of any right to object to any order or appeal from any
10 order entered by Judge Amon in reliance on this report
11 and recommendation.

12 Unless there's anything further, we are
13 adjourned.

14 MS. AUGELLO: Thank you.

15 THE COURT: All right.

16 (Matter concluded)

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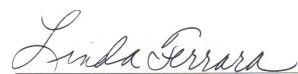
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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 9th day of January, 2012.



Linda Ferrara

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